

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DEVONTE MONTEL EATON, : **CIVIL ACTION NO. 1:25-CV-222**

:

Plaintiff : **(Judge Neary)**

:

v. :

:

WARDEN FERNANDO GARZA, et al., :

:

Defendants :

ORDER

AND NOW, this 21st day of February, 2025, upon review of plaintiff's application for leave to proceed *in forma pauperis*, and further upon review of the complaint pursuant to 28 U.S.C. § 1915(e)(2) and 28 U.S.C. § 1915A, and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. Plaintiff's application for leave to proceed *in forma pauperis*, (Doc. 2), is GRANTED.
2. Plaintiff shall pay the full filing fee of \$350.00 based on the financial information provided in the application to proceed *in forma pauperis*. The full filing fee shall be paid regardless of the outcome of the litigation. Pursuant to 28 U.S.C. 1915(b)(1) and (2), the Superintendent/Warden, or other appropriate official at plaintiff's place of confinement, is directed to deduct an initial partial filing fee of 20% or the greater of:
 - a. The average monthly deposits in the inmate's prison account for the past six months, or
 - b. The average monthly balance in the inmate's prison account for the past six months.

The initial partial filing fee shall be forwarded to the Clerk of the United States District Court for the Middle District of Pennsylvania, P.O. Box 1148, 235 N. Washington Avenue, Scranton, Pennsylvania, 18501-1148, to be credited to the above-captioned docket number. In each succeeding month, when the amount in plaintiff's inmate trust

fund account exceeds \$10.00, the Superintendent/Warden, or other appropriate official, shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to plaintiff's inmate trust fund account until the fees are paid. Each payment shall reference the above-captioned docket number.

3. The Clerk of Court is DIRECTED to send a copy of this order to the Superintendent/Warden of the institution where plaintiff is presently confined.
4. Plaintiff's civil rights claims filed pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971) are DISMISSED with prejudice. This case shall proceed solely as to plaintiff's claims filed pursuant to the Federal Tort Claims Act ("FTCA").
5. The Clerk of Court is directed to terminate all of the currently named defendants from the docket of this case and substitute the United States of America as the only defendant in this action.
6. In accordance with Federal Rule of Civil Procedure 4(c)(3), the Clerk of Court is directed to SERVE a copy of the complaint (Doc. 1), notice of lawsuit and request to waive service of summons (form AO 398), waiver of the service of summons (form AO 399), and this order on the United States. In the interest of efficient administrative judicial economy, the court requests that defendant waive service pursuant to Federal Rule of Civil Procedure 4(d).

/S/ KELI M. NEARY
Keli M. Neary
United States District Judge
Middle District of Pennsylvania